

HUMAN SERVICES BOARD

INTRODUCTION

DISCUSSION

The facts are not in dispute. The petitioner's mother moved into a residential care facility on or around November 1, 2008. On December 19, 2008 the petitioner filed an application on behalf of her mother for personal care services through the Choices for Care Medicaid Waiver program, which is administered by the Department of Disabilities, Aging and Independent Living (DAIL). DAIL eventually found the petitioner's mother eligible for Choices for Care effective as of the date of her application. The petitioner filed this appeal because her mother apparently

incurred personal care expenses at the facility prior to that date that have not been covered under Choices for Care.

Section V.B. of the DAIL Choices for Care, 1115 Long-term Care Medicaid Waiver Regulations clearly limit "retroactive coverage" to "the date the DCF long-term care application is received by DCF", provided that clinical and financial eligibility can be established as of that date. In light of this it does not appear that there is any basis in the regulations to allow or require the Department to provide retroactive coverage prior to the date of the petitioner's application.

It is not clear in this case why the petitioner was delayed in her mother's application for Choices for Care for more than a month and a half after her mother had moved into the facility. The petitioner has not alleged that the Department (either DCF or DAIL) is in any way responsible for the delay. To the extent that the facility itself might bear some responsibility in this regard, the petitioner is free to raise this as a defense to in any attempt by the facility to bill the petitioner's mother for any services it might have provided prior to December 19, 2008.

However, inasmuch as there has been no showing that the Department's decision in this matter was not fully in accord

with the pertinent regulations, the Board is bound to affirm.
3 V.S.A. § 3091(d), Fair Hearing Rule 1000.4D.

ORDER

The Department's decision finding the petitioner's
mother ineligible for Choices for Care prior to December 19,
2008 is affirmed.

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